

TEL (352) 335-0400
FAX (407) 209-3870
www.smartbizlaw.com



Jeff Childers, Esq.
jchilders@smartbizlaw.com

Nick Whitney, Esq.
nwhitney@smartbizlaw.com

Charlie Hardage, Esq.
Of counsel

Tuesday, June 17, 2025

Via Electronic Filing

Hon. Andrew E. Krause, U.S.M.J.
The Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

Re: Discovery Status Report
Case No.: 7:23-cv-04533
Project Veritas, et al. v. James O'Keefe, et al.

Dear Judge Krause:

I write on behalf of Counterclaim-Plaintiffs James O'Keefe ("O'Keefe") and O'Keefe Media Group ("OMG", and collectively, "Counterclaimants"), jointly with counsel for Counterclaim-Defendants, Project Veritas and Project Veritas Action Fund (collectively "Counterclaim-Defendants"), in connection with the status conference before Your Honor on June 9, 2025, and the Court's subsequent Minute Entry entered on June 10, 2025.

Counterclaimants' Position

The parties have conferred to discuss the schedule of remaining depositions. Notices of Subpoenas and/or Depositions have been served and Subpoenas are out for service related to the depositions of party and non-party witnesses as follows:

- John Garvey: June 17, 2025
- Joshua Hughes and Project Veritas corporate representative: June 25, 2025
- Tom O'Hara: June 26, 2025 (Counterclaimants have been unable to serve or contact Mr. O'Hara and intend to seek leave to serve by alternative means).

- Barry Hinckley: July 17, 2025 (Counterclaimants are in discussions with Mr. Hinckley's personal counsel to reschedule the deposition without document production, otherwise Mr. Hinckley intends to pursue his pending Motion to Quash in the Southern District of Florida related to the Subpoena served on Mr. Hinckley)
- Kyle Seraphin: July 29, 2025
- Matt Tyrmand: July 30, 2025 (previously set for June 30, 2025-July 1, 2025; Counterclaimants are in touch with Mr. Tyrmand's personal counsel, who has agreed to reset Mr. Tyrmand's deposition to July 30, 2025)
- Hannah Giles: July 31, 2025
- Paul Calli: August 1, 2025
- James O'Keefe: August 5, 2025
- Ken Larrey: August 7, 2025

Counterclaim-Defendants' Position

Counterclaim-Defendants agree with Counterclaimants' position above, but separately note that Counterclaim-Defendants have noticed the deposition of OMG pursuant to Rule 30(b)(6) for August 5, 2025, the same day as the Rule 30(b)(1) deposition of Mr. O'Keefe. Counterclaimants have objected to a Rule 30(b)(6) deposition of OMG on the grounds that there was no prior request for a deposition of OMG. Counterclaim-Defendants disagree. While Counterclaim-Defendants requested the deposition of "Mr. O'Keefe" at the June 9, 2025 Hearing, Counterclaim-Defendants have generally been referring to both Mr. O'Keefe and OMG as "O'Keefe." *See, e.g.*, Dkt. 161 at 1 (defining both O'Keefe and OMG as "O'Keefe"); *id.* at 3, n.6 ("PV anticipates noticing, at a minimum, the deposition of O'Keefe."); June 9, 2025 Hearing Tr. at 24:1-2 ("And by Mr. O'Keefe, I, of course, mean Mr. O'Keefe and any of his agents or agents of OMG."). Moreover, during the June 9, 2025 Hearing, Your Honor rightly indicated that Your Honor "can't imagine there would be a good-faith objection" to Mr. O'Keefe's deposition. *See* Hearing Tr. at 26:21-25. The same should apply to OMG.

Because OMG has no good-faith basis to object to its deposition, the Court should permit the deposition of OMG to proceed consecutive to Mr. O'Keefe's deposition on August 5, 2025.

Regards,

A handwritten signature in black ink, appearing to read "Nick Whitney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nick Whitney, Esq.

cc: all counsel of record via CM/ECF